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Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Promoting Deployment and Subscribership in Unserved
and Underserved Areas, Including Tribal and Insular
Areas;
Federal-State Joint Board on Universal Service, CC
Docket No. 96-45**

Dear Ms. Salas:

I am enclosing, for filing, the Initial Comments of the American Samoa Telecommunications Authority in the proceeding referred to above. Please contact me if you have any questions.

Respectfully submitted,



David L. Sieradzki
Counsel for American Samoa
Telecommunications Authority

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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Promoting Deployment and Subscribership)
in Unserved and Underserved Areas,)
Including Tribal and Insular Areas)
Federal-State Joint Board on Universal Service)

CC Docket No. 96-45

**COMMENTS OF THE AMERICAN SAMOA
TELECOMMUNICATIONS AUTHORITY**

The American Samoa Telecommunications Authority ("ASTCA"), by counsel, hereby comments on two issues raised by the Further Notice of Proposed Rulemaking in this proceeding: 1/ insular telemedicine, and the high cost of toll service in American Samoa.

INTRODUCTION

ASTCA is a semi-autonomous agency of the American Samoa Government, with separate divisions that provide local and long distance telecommunications service to over 17,000 access lines in the geographically remote islands of the territory of American Samoa. 2/ ASTCA is a "rural telephone

1/ *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, FCC 99-204 (released Sept. 3, 1999) ("FNPRM").

2/ *See American Samoa Government and the American Samoa Telecommunications Authority, Petition for Waivers and Declaratory Rulings to Enable American Samoa to Participate in the Universal Service High Cost Support Program and the National Exchange Carrier Association Pools and Tariffs*,

company” that has been designated as an “eligible telecommunications carrier” (“ETC”) for universal service purposes. In the increasingly competitive marketplace mandated by the 1996 Act, ASTCA competes with, and interconnects with, other carriers in serving the telecommunications needs of local residents.

This proceeding represents an ideal opportunity for the FCC to address several difficult problems affecting consumers in American Samoa, including (i) special problems with rural telemedicine and (ii) funding for the high cost of toll service, particularly for toll-free access and access to information services. Because there is no fully equipped university hospital in American Samoa, ASTCA operates a high-capacity circuit connecting American Samoa health care providers to the facility at the University of Hawaii in Honolulu. While this is precisely the type of service offering that the universal service program for rural health care was intended to support, ASTCA’s operation may be ineligible for support under the current structure of the program. The FCC should take the opportunity presented by the FNPRM to take positive steps toward remedying this situation, as well as toward ensuring access to toll-free and advanced services for American Samoa.

DISCUSSION

In the FNPRM, the Commission stated that it is “particularly interested in the differences between the needs and opportunities of rural health care providers in insular areas and those located in the remainder of the United

States.” 3/ The Commission also sought comment on whether its rules concerning calculation of rural health care support requires modification to address the geographic or demographic situation in insular areas. 4/ The Commission also sought comment on the high rates of interexchange service and the limited access to toll-free and advanced services facing the Pacific Island Areas given their traditional treatment as international calling destinations. 5/ We address these points below.

Rural Telemedicine

As touched on above, there is no fully-equipped university hospital in American Samoa, so health care providers in the Territory need access to the closest such facility available -- at the University of Hawaii in Honolulu. ASTCA, at its own expense, has set up and currently operates a high-capacity circuit to connect these health care providers, including the approximately 25 physicians and 20 nurses at American Samoa’s lone hospital, LBJ Tropical Medical Center, to the facility at the University of Hawaii in Honolulu.

3/ FNPRM at ¶ 141. ASTCA fully supports the Commission’s tentative conclusion that American Samoa is an “insular area” as that term is used in 47 U.S.C. § 254(b)(3), *id.* at ¶ 138, given American Samoa’s status as an island Territory of the United States. *See id.* at ¶ 137.

4/ *Id.* at ¶ 143. More specifically, the Commission also sought comment on a proposal to modify 47 C.F.R. § 54.601(c)(1) to provide support for telecommunications services between the medical facilities in an insular area and a supporting medical center in an urban area outside the insular area, such as in Hawaii. *Id.* at ¶ 144.

5/ *Id.* at ¶¶ 146-47.

Although ASTCA has been designated an ETC, 6/ the rural health care program is structured in such a way that American Samoa and other insular areas are excluded. The program is set up to support the difference in cost between access to advanced health care facilities by health care providers in “rural” areas of a “state” and such access in “urban” areas of a “state.” *All* of American Samoa is “rural,” however, and the FCC’s designation of the main island of Tutuila as the “urban” area for purposes of the rural health care program 7/ thus prevents the rural health care program from operating as intended. This is especially true given that Tutuila includes 95% of the population and *all* of the health care providers in the Territory. Moreover, because ASTCA maintains a single set of rates that apply throughout the Territory, there is no difference between the rates in “urban” and “rural” rates within the Territory. Hence, under the program as crafted by the FCC, American Samoa may not be eligible to receive any rural telemedicine support.

This is inconsistent with Congress’ intent to ensure that rural areas such as American Samoa receive support for the high cost of providing telemedicine to rural health care providers. 8/ The people of American Samoa would thus be

6/ Under Executive Order No. 13-1997, Tauese P.F. Sunia, Governor of American Samoa, exercised his authority pursuant to 47 U.S.C. § 214(e) to designate ASTCA as an ETC for purposes of receiving federal universal service support.

7/ *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 9137, ¶ 697 (1997) (“*Universal Service First Report and Order*”).

8/ The Joint Conference Report of the 1996 Act indicates that Section 254 was explicitly amended to add “insular areas’ (such as the Pacific Island territories) to the list of consumers to whom access to telecommunications and information

deprived of the major benefits of telemedicine, which have been recognized by the Commission, 9/ because the rural telemedicine for which the Territory needs support is access to the nearest U.S. urban area with advanced health care facilities -- *i.e.*, Honolulu, Hawaii.

The Commission should thus use the FNPRM as a vehicle for revisiting the structure of the support program for telemedicine in rural and insular areas. Specifically, the Commission should adopt the proposal to permit utilization of a “surrogate” urban area for purposes of determining comparable rates for insular areas. In the case of American Samoa, the program should provide support for rural health care links to Honolulu. The Commission clearly has legal authority to provide funding for such links, either through the Rural Telemedicine Fund or by the High-Cost Universal Service Fund. 10/ In this way the Commission will ensure

services should be provided” under universal service. Joint Managers’ Statement, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess., at 131 (1996).

9/ *Universal Service First Report and Order*, 12 FCC Rcd at 9093-95, ¶¶ 609-611.

10/ *See generally Texas Office of Public Utility Counsel v. FCC*, No. 97-60421, 1999 WL 556461 (5th Cir., July 30, 1999) (generally affirming FCC’s broad authority to establish high-cost, schools/libraries, and rural health care universal service programs). The Fifth Circuit reversed only certain aspects of the program that encroached upon the authority of state commissions over intrastate service; but it is clear that connections between American Samoa and Hawaii are jurisdictionally interstate, and therefore within the FCC’s authority. Moreover, the Fifth Circuit specifically upheld a provision funding certain forms of telemedicine that, while not specifically falling within the mandate of Section 254(h)(1)(A), were generally authorized by the language in Section 254(h)(2)(a), which directs the Commission to “enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services.” *Id.* at *37.

that American Samoa receives the benefits Congress intended the territory to receive under the federal rural telemedicine program.

Access to Toll-Free and Advanced Services

As the FCC is aware, 11/ residents of American Samoa do not have comparable access to most 800 and similar toll-free numbers, and the services accessible through those numbers, in part because of the high cost of long distance service to the territory. Moreover, including American Samoa in the North American Numbering Plan ("NANP") does not necessarily solve this problem. To ASTCA's knowledge, customers of 800 and similar toll-free services have not generally included in their toll-free calling areas even those insular areas that have been incorporated into the NANP. 12/

Section 254(g) of the Act was intended to be the primary vehicle for ensuring access to long distance services at reasonable rates for residents of rural and insular areas. 13/ It is unclear, however, whether interexchange carriers are

11/ *Universal Service First Report and Order*, ¶¶ 410-423.

12/ *See id.*; see also *Federal-State Joint Board on Universal Service; Requests for Extension of 880/881 Transitional Dialing Plan by the Commonwealth of the Northern Mariana Islands and the Territory of Guam*, 13 FCC Rcd 12642 (Com. Car. Bur. 1998). In 1997 the American Samoa Government (including its Office of Communications, the predecessor of ASTCA) proposed a rate integration plan for American Samoa. Among other things, it proposed that American Samoa would remain outside the NANP, and would retain its own international dialing code. The proposal remains pending before the Commission. See *The American Samoa Government's Proposed Rate Integration Plan For American Samoa, Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket No. 96-61 (filed Oct. 1, 1997).

13/ 47 U.S.C. § 254(g).

complying with their Section 254(g) obligations with respect to their 800 and similar toll-free access service offerings. Specifically, interexchange carriers may not be structuring the prices and other terms of their 800 and similar toll-free services in such a way as to make it economically feasible for customers in the U.S. mainland to include American Samoa in their toll-free calling areas. The Commission should gather information on this issue and should determine whether any violations of the rate averaging rules are occurring.

The FCC should remedy the problems discussed above as efficiently and expeditiously as possible. This is particularly relevant given that the FNPRM is largely directed toward the Commission's initiative to promote telecommunications service to underserved American Indian reservations. ^{14/} The rationale underlying the portions of the FNPRM addressed to tribal areas also supports the measures discussed above to promote telecommunications service to insular territories. Like Indians on reservations, American Samoans have much lower incomes and lower telephone penetration rates than the rest of the United States. ^{15/} The FCC should take advantage of this opportunity to stimulate economic development in American Samoa by adopting measures to promote telecommunications service in that remote, insular territory.

^{14/} See FNPRM at ¶¶ 32-82; see also *Overcoming Obstacles to Telephone Service on Indian Reservations*, BO Docket No. 99-11, http://www.fcc.gov/Panel_Discussions/Teleservice_reservations/.

^{15/} See, e.g., FNPRM at ¶ 5 and n.20.

Respectfully submitted,

**AMERICAN SAMOA
TELECOMMUNICATIONS AUTHORITY**

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